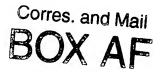
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Firm or Individual Signature  Date August 27, 2003  CERTIFICATE OF TRANSMISSION/MAILING	I hereby certify tha	t this correspondence is being to	ansmitted to	o the USPTO or deposited with the U P.O. Box 1450, Alexandria, VA 223	nited States Postal	Service with	sufficient postage as first cl

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.







PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TECHTER 1600/2900

In re Patent Application

Inventor:

Paul Lehmann

Group: 1647 ~

Serial No. 10/047,749, filed October 23, 2001

Examiner: Nichols, Christopher J

(Ref. No. 20356 US1)

For:

METHOD FOR TREATING DISTURBANCES IN IRON METABOLISM USING A COMBINATION OF ERYTHROPOIETIN AND IRON

## COMMUNICATION AFTER FINAL REJECTION UNDER 37 CFR § 1.116

RESPONSE UNDER 37 CRF 1.116

EXPEDITED PROCEDURE

Nutley, New Jersey 07110 August 27, 2003

Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

This communication is responsive to the final office action dated July 2, 2003, a response to which is due on or before October 2, 2003. Entry of this communication is respectfully requested to place the application in condition for allowance.

Submitted herewith is a terminal disclaimer over commonly owned US Pat. No. 6,372,715 B1.

Filed: October 23, 2001

**Discussion** 

The claims pending in this application are claims 15, 16 and 19-29. All prior

objections to the specification and rejections of the claims are withdrawn.

No new subject matter is presented by this communication.

Pending claims 15, 16 and 19-27 are newly rejected under the judicially created

doctrine of obvious-type non-statutory double patenting as being unpatentable over US

Pat. No. 6,372,715 B1 in view of Mercuriali and Inghilleri., "Iron administration to

optimize the effect of r-HuEPO in the surgical setting," Erythropoiesis: New Dimension

in the Treatment of Anemia, 6:67-76 (1995), taken together with Pincus et al.,

"Multicultural Study of Recombinant Numan Erythropoietin in Correction of Anemia in

Rheumatoid Arthritis," The American Journal of Medicine 89(2):161-168. Applicants

submit herewith a terminal disclaimer over the '715 patent. This rejection is thus

overcome.

2

Serial No. 10/047,749 Filed: October 23, 2001

## **Conclusion**

In view of the foregoing comments and the submission of the terminal disclaimer, this application is now in condition for allowance and applicants solicit early action to that end.

Respectfully submitted,

Attorney for applicant(s)
Patricia S. Rocha-Tramaloni
(Reg. No. 31,054)
340 Kingsland Street

Nutley, New Jersey 07110 Telephone: (973) 235-2441 Telefax: (973) 235-2363

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